

§ 1952.102

29 CFR Ch. XVII (7-1-11 Edition)

(a) Introduction of the legislative amendments in the legislative session following approval of the plan. The legislation was passed and became effective July 1, 1973.

(b) Complete revision of all occupational safety and health codes as proposed within one year after the proposed standards are found to be at least as effective by the Secretary of Labor.

(c) Development of administrative rules and procedures, including rights and responsibilities of employers, employees and the Workmen's Compensation Board including regulations on variances, exposure to hazards and access to information on exposure to hazards by July 1, 1974.

(d) Training of present inspection personnel of the accident prevention division and the occupational health section by July 1, 1973. Selection and training of additional inspectors within one year of the effective date of the 1973-1975 budget.

(e) Establishment of specific occupational safety and health goals by July 1, 1974. These goals will be reviewed and revised biannually.

(f) Development and implementation of an affirmative action program by July 1, 1973.

(g) Development and implementation of administrative rules relative to an on-site voluntary compliance consultation program by July 1, 1974.

[39 FR 11881, Apr. 1, 1974. Redesignated at 52 FR 9162, Mar. 23, 1987, and further redesignated at 59 FR 42495, Aug. 18, 1994]

§ 1952.102 Completion of developmental steps and certification.

(a)(1) In accordance with § 1952.108(a), the Oregon Safe Employment Act, Senate Bill 44, amending Oregon Revised Statutes 654 and 446 and other miscellaneous provisions, was signed by the Governor on July 22, 1973, and carried an effective date of July 1, 1973.

(2) The following differences between the program described in § 1952.105(b)(1) and the program authorized by the State law are approved:

(i) By promulgation of the appropriate regulatory provision, Rule 46-331, and by including a mandatory consultation requirement in its Field Compliance Manual, Oregon provides for employee participation, when there

is no employee representative, by requiring the inspector to consult with employees.

(ii) In accordance with ORS, 654.062(3), an additional written request from an employee is required in order to obtain a statement of the reasons why no citation was issued as a result of an employee complaint of unsafe work conditions, which will be subject to evaluation in its administration.

(iii) Section 18 of Oregon's legislation authorizes a stay of the abatement date by operation of law pending a final order of the Board for nonserious violations and for serious violations when the abatement date of the serious violation is specifically contested. An expedited hearing will be requested for serious violations when the abatement date is contested.

(3) The Oregon Safe Employment Act as last amended in the 1981 legislative session included changes renaming the designated enforcement agency, establishment of a director for that agency, authority for requiring certain employers to establish safety and health committees, and limiting penalties for other-than-serious violations in temporary labor camps. The Assistant Secretary approved the amended legislation on September 15, 1982.

(b) In accordance with the requirements of 29 CFR 1952.10 the Oregon State Poster with assurance submitted on September 2, 1975, was approved by the Assistant Secretary on November 5, 1975. The State's revised poster which implemented the assurance was approved by the Assistant Secretary on September 15, 1982.

(c) In accordance with § 1952.108(d) Oregon has completed the training as described.

(d) Oregon has developed and implemented a computerized Management Information System.

(e) In accordance with § 1952.108(f) Oregon has developed and implemented an Affirmative Action Plan.

(f) In accordance with § 1952.108(e) a Statement of Goals and Objectives has been developed by the State and was approved by the Assistant Secretary on June 24, 1977.

(g) The Oregon State Compliance Manual which is modeled after the Federal Field Operations Manual has

been developed by the State, and was approved by the Assistant Secretary on June 24, 1977.

(h) In accordance with the requirements of §1952.4, Oregon State record-keeping and reporting regulations adopted on June 4, 1974, and subsequently revised, were approved by the Assistant Secretary on August 28, 1980.

(i) In accordance with §1952.108 (c) and (g), the Oregon Workers' Compensation Department adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints, posting of citations and notices, and voluntary compliance consultation in the public sector, effective July 1, 1974, with revisions incorporated in rules effective August 1, 1982 and August 13, 1982. These regulations with supplemental assurances were approved by the Assistant Secretary on September 15, 1982.

(j) In accordance with §1952.108(c) the Oregon Workers' Compensation Board adopted rules effective December 20, 1973, governing practice and procedures for contested cases with revisions incorporated in rules effective August 2, 1982. These rules were approved by the Assistant Secretary on September 15, 1982.

(k) The Oregon Workers' Compensation Department submitted rules of the Oregon Bureau of Labor and Industries, the agency assigned responsibility for investigation of complaints of discrimination under the Oregon Safe Employment Act. These regulations and rule effective June 21, 1982, and March 12, 1982 with supplemental assurance were approved by the Assistant Secretary on September 15, 1982.

(l) In accordance with §1902.34 of this chapter, the Oregon occupational safety and health plan was certified effective September 15, 1982, as having completed all developmental steps specified in the plan as approved on December 28, 1972, on or before December 28, 1975. This certification attests to structural

completion, but does not render judgment on adequacy of performance.

[40 FR 24523, June 9, 1975, as amended at 41 FR 8955, Mar. 2, 1976; 41 FR 23671, June 11, 1976; 42 FR 34281, July 29, 1977; 45 FR 60430, Sept. 12, 1980; 47 FR 42104, 42106, Sept. 24, 1982. Redesignated at 52 FR 9162, Mar. 23, 1987, and further redesignated at 59 FR 42495, Aug. 18, 1994]

§ 1952.103 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL-CIO v. Marshall*, compliance staffing levels ("benchmarks") necessary for a "fully effective" enforcement program were required for each State operating an approved State plan. In October 1992, Oregon completed, in conjunction with OSHA, a re-assessment of the health staffing level initially established in 1980 and proposed a revised health benchmark of 28 health compliance officers. Oregon elected to retain the safety benchmark level established in the 1980 Report to the Court of the U.S. District Court for the District of Columbia in 1980 of 47 safety compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on August 11, 1994.

[59 FR 42495, Aug. 18, 1994]

§ 1952.104 Final approval determination.

(a) In accordance with Section 18(e) of the Act and procedures in 29 CFR Part 1902, and after determination that the state met the "fully effective" compliance staffing benchmarks as revised in 1994 in response to a court order of the United States District Court for the District of Columbia in *AFL-CIO v. Marshall*, (C.A. No. 74-406), and was satisfactorily providing reports to OSHA through participation in the Federal-state Integrated Management Information System, the Assistant Secretary evaluated actual operations under the Oregon State Plan for a period of at least one year following certification of completion of developmental steps. Based on an 18(e) Evaluation Report covering the period October 1, 2002 through September 30, 2003,